

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VICTOR LOPEZ and on behalf of all
other persons similarly situated,

Plaintiff,

-v-

WALGREENS BOOTS ALLIANCE, INC.,

Defendant.

19 Civ. 9853 (PAE) (OTW)

ORDER

PAUL A. ENGELMAYER, District Judge:

On February 7, 2020, defendant Walgreens Boots Alliance, Inc. (“Walgreens”) moved to dismiss plaintiff Victor Lopez’s initial complaint in this case. Dkt. 18. On February 10, 2020, the Court referred the motion to the Honorable Ona T. Wang, Magistrate Judge, for a report and recommendation. Dkt. 20. On February 20, 2020, Lopez filed an amended complaint. Dkt. 23. On March 5, 2020, Walgreens moved to dismiss Lopez’s amended complaint. Dkt. 24.

On June 18, 2020, the parties filed a joint letter, addressed to Judge Wang, with the subject line “Request to Stay Pending Appeal in Related Cases.” Dkt. 32 at 1. The parties explained that they sought a stay “pending the outcome of the appeals filed in *Dominguez v. Banana Republic*, Case No. 20-1559 and [five] other related cases,” because those cases involve the same claims, counsel, and arguments as the pending motion to dismiss in this case. *Id.* at 1–2; *see also id.* at 1 n.1 (noting that *Banana Republic* is on the expedited appellate calendar). Although these reasons apply equal to other dates and deadlines in this case, the parties phrased their bottom line request as one to “stay discovery.” *Id.* at 2. On June 19, 2020, Judge Wang so ordered the letter and directed the parties “to file a joint status letter within 7 days of the appeal decision.” Dkt. 33.

The *Banana Republic* decision will almost certainly occasion significant re-briefing of Walgreens' pending motion, if not the resolution of this litigation. Further, with discovery having been stayed at the parties' joint request, neither party would be prejudiced by the Court's waiting for guidance from the Circuit regarding identical issues. Accordingly, the Court administratively terminates Walgreens' motion to dismiss, without prejudice to Walgreens' ability to refile its motion subsequent to the Circuit's decision in *Banana Republic*.¹

The Clerk of Court is respectfully directed to terminate the motions pending at dockets 18 and 24.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: June 22, 2020
New York, New York

¹ For the avoidance of doubt, this Order does not impact any other dates and deadlines in this case. For example, the parties remain directed to file a joint status letter with Judge Wang within 7 days of the appeal decision.